



Terms of business

Patent and Trade Mark Attorneys

Dock, 75 Exploration Drive,
Leicester, LE4 5NU, UK

t +44 (0)116 233 2626

f +44 (0)116 319 2848

mail@serjeants.co.uk

www.serjeants.co.uk

TERMS OF BUSINESS

The following represent the terms which will apply to any professional work that we ('Serjeants LLP') carry out on behalf of you (our 'client'). The terms are set out for your benefit, as well as ours, and we ask that you read them carefully since they will form the basis for our ongoing relationship.

Charges

We act in a professional capacity on the understanding that our fees and any disbursements made on behalf of clients are paid in any event, regardless of the outcome.

Our charges are calculated mainly by reference to the amount of professional time spent. This includes time spent on correspondence, telephone calls, in meetings and travelling, as well as in preparing documents or otherwise dealing with a file. The hourly rates for the professional members of staff that will handle your work are set out in the letter of engagement and we will notify you promptly of any changes. For some tasks we make a fixed charge which we will keep to regardless of the complexity of the matter. For these tasks, we can and will give firm quotations in advance. For other work, we are happy to provide estimates of future costs but these estimates can never be binding. This is because it is usually impossible to predict in advance exactly how much work will be involved in a particular task. However, where possible we will warn when cost estimates are likely to be exceeded.

In addition to time charges and standard charges, our invoices may include disbursements such as patent office fees and foreign representatives' charges, which we have to pay on your behalf. Disbursements in foreign currencies will be converted to your billing currency (i.e. sterling for our clients in the UK) at the appropriate exchange rate on the day when we receive an invoice for the disbursement. We will apply an additional charge to disbursements to cover administrative costs and potentially unfavourable currency fluctuations.

Our normal policy is to send an invoice to you when a particular task has been completed, e.g. when we have filed a patent or trade mark application, or submitted a response to an examination report.

For new clients, for existing clients with a poor payment history or for cases where we need to incur liability for large disbursements, such as those involved in foreign patenting, we may require payment in advance. If you require documentation against which to make an advance payment, we can provide a pro forma invoice for that purpose. Otherwise our invoices are payable within thirty days of receipt. If payment is not made in time, we reserve the right to charge interest on the outstanding amount. In extreme cases of non-payment we may suspend further work or terminate our relationship with you as our client, which can result in the loss of your rights.

Further information about how we hold client money is available in our Client Money Policy.

Identity of client

Unless it is agreed otherwise in advance, the person instructing us (which may be an individual or an incorporated or unincorporated body) will be responsible for payment of our charges. This applies even if the person is instructing us on behalf of a third party (e.g. their client). We may agree to send invoices directly to a third party, but only on the basis that you remain liable to pay them to the extent that the third party does not pay them when due. We also assume that the person instructing us has the right to do so, i.e. that this person owns the rights in question or is acting with the authority of the owner of the rights.

Before we first act for you, and from time to time while we continue to act, we may require you to provide proof of your identity and we may be unable to start acting until we have completed any checks necessary to comply with our obligations under money laundering regulations.

Work delegated to third parties

Some of the work that we undertake may be delegated to other, specialist firms. Examples include certain types of searches, and obtaining protection in foreign countries. We will not be liable for any default or negligence by such third parties.

Ongoing legal duty

We work on a retained basis, and have a professional duty to report to you any communications sent to us in our capacity as your agent or representative. Please therefore let us know if you are no longer interested in any of the intellectual property in our care, to avoid incurring charges for reporting or dealing with such communications. For granted intellectual property rights then our professional duty as your recorded agent or representative is limited to reporting communications from the relevant office or third parties and sending you renewal reminders. Nothing in these terms should be interpreted as establishing a general retainer or continuing professional duty under which we are obliged to keep under review all previous advice.

Updating information

Please also notify us if you change your name or address or if there is a change in the ownership of any of the intellectual property in our care. Such changes should be registered promptly with the relevant authorities or rights may be lost. In the case of a change of ownership, it is advisable to consult us before drawing up an assignment so that we can advise on the best form of document.

Your instructions

We can only work to your instructions. We will inform you of any relevant deadlines and the actions or instructions that we need in order to meet them. However, we rely on you to provide us with timely and complete instructions. We accept no liability for any loss of rights that may arise if we are unable to complete a task because of a lack of instructions from you. In some situations we may ask you to confirm oral instructions in writing before we can act upon them.

Our normal working hours are 9.00 am to 5.00 pm Monday to Friday. Instructions received after the office has closed will not be dealt with until the next working day. Our office will close on UK public holidays even though, for example, the European Patent Office and the EU Intellectual Property Office (EU IPO) may be open for the filing of documents on those days.

Confidentiality

Except where disclosure of information is required by law, we will keep details of your affairs confidential. We regard these obligations as continuing even if we should cease to act for you.

File storage and ownership

Our files are kept under normal commercial office filing and storage conditions, and may be destroyed when no longer current. Please therefore tell us if you require the return of any materials supplied to us. Our files remain our own property. If work is transferred from us to another representative, we will either provide them with a copy of the file contents making a reasonable charge for the work involved, or give access to the file to allow them to extract the information they need. We have a lien on your files and all other documents and materials and you agree that we can retain ownership of your files until we receive payment in full of our invoices for all matters in respect of which we have been instructed. Apart from the exercise of any lien, we will not obstruct or unreasonably delay a transfer of responsibility to a new representative.

Further information is available in our File Retention Policy.

Professional regulation

Serjeants LLP is regulated by the Intellectual Property Regulation Board (IPReg) (www.ipreg.org.uk).

All of our partners and qualified staff members are registered patent and/or trade mark attorneys. Subject to their professional qualifications, they are individually regulated by the IPReg, the Institute of Professional Representatives before the European Patent Office (EPI) (www.patentepi.com), and the Solicitors Regulation Authority (SRA) (www.sra.org.uk), and are subject to those regulators' respective Codes of Conduct. It is our responsibility to carry out our professional work with due skill, care and diligence and with proper regard for the technical standards that are expected of us. We will only undertake work that is within our expertise or competence.

We shall at all times act with integrity, putting our clients' interests foremost, subject to the law and any overriding duty to any court or tribunal.

Conflict

We will try to avoid a conflict of interest, but we are not prevented from acting for another client merely because they are your competitor. If a conflict of interest arises between your instructions in any particular matter and instructions received from a third party, because we hold confidential information that might affect the advice we give to either party, we will notify you of that conflict of interest and may ask you or the third party to seek advice elsewhere in order to avoid the conflict of interest.

Client care and complaints handling

We are pleased to have the opportunity to work for you and we hope that you will tell us if you are not satisfied with any aspect of our services. In the first instance, please continue to deal with the person who handles your work, but if you prefer you are always free to approach any of the partners. We take all complaints seriously and will deal with them openly, constructively, and in accordance with our Complaints Policy. If after this you remain dissatisfied then you can ask one of the regulatory bodies mentioned above to consider your complaint and seek to resolve the issue.

Individual clients, micro-enterprises, charities, clubs and trusts can also submit complaints regarding service quality to the Legal Ombudsman (www.legalombudsman.org.uk).

Exclusion and limitation of liability

We are insured by PAMIA Ltd (www.pamia.co.uk) which is a specialist mutual insurer for patent and trade mark attorneys, in compliance with the requirements of the IPReg. Any claim in connection with services that we provide (including a claim for negligence) will be the responsibility of Serjeants LLP and you agree not to make a claim against any of the partners or employees of the firm.

Our liability for any loss suffered by you due to our negligence will be limited to the lesser of: (i) a sum representing a proportion of loss or damage which would be attributed to us by a court allocating proportionate responsibility, having regard to any contribution to such loss or damage by any other person, in proceedings for contribution under the Civil Liability (Contribution) Act 1978; and (ii) the limit of our professional indemnity insurance cover (presently £5,000,000) at the time the claim is notified to us.

Data protection

We comply with the Data Protection Act 1998 whenever we obtain or use any of your personal data. We will use your personal data for the purpose of communicating with you and providing our services. Unless you tell us otherwise, we may use your personal data to send you newsletters and other information about intellectual property issues. When we apply to register intellectual property rights on your behalf, it is generally necessary to provide names and addresses of the owner of the rights and of any inventors, which may be published as part of the application procedure.

Limited liability partnership

We are a limited liability partnership registered in England and Wales with registration number OC371845, VAT number GB 339 4083 45 and registered office address Dock, 75 Exploration Drive, Leicester, LE4 5NU. We may use the word 'partner' to refer to a member of the limited liability partnership. No reference given orally, on our website, or on any of our printed or electronic material, to a 'partner' is to imply that any person is carrying on business with others in partnership for the purposes of the Partnership Act 1890.

Governing law and jurisdiction

This document is governed by and shall be construed in accordance with English law, and the Courts of England shall have exclusive jurisdiction to resolve any disputes arising under it.

CLIENT MONEY POLICY

Client money

Client money represents funds that we ('Serjeants LLP') hold on trust for you (our 'client'). We shall ensure that such funds are protected to at least the level required by our regulator (IPReg). Note that we are not qualified to act as bankers and hold sums on your behalf for unspecified purposes.

We shall treat as client money any net credit in your account with us, including:

- Funds received from you in advance of work being done.
- Overpayments by you.
- Refunds received from IP offices, e.g. on withdrawal of an application.
- Payments of your costs or damages by another party to a dispute.
- Credit notes issued by us.

Please note that we shall not normally treat as client money any credit on your account that is offset by a larger debit, even if the debit relates to a different matter.

Client accounts

If, within five working days of the credit being entered on your account, we have not completed the work for which you have paid in advance, or we have not sent you a refund for the amount of the net credit, then we shall transfer the client money into a client account. That is a separate bank account where the funds will be protected from the firm's creditors in the unlikely event that we should become insolvent.

We do not anticipate that interest will be paid on funds in the client account. In the event that interest is paid, we reserve the right to donate it to charity rather than to distribute it among clients having funds in the account.

FILE RETENTION POLICY

Ownership of files

Our files remain our own property. If you (our 'client') instruct that work is transferred from us to another representative, we ('Serjeants LLP') will either provide them with a copy of the file contents making a reasonable charge for the work involved, or give access to the file to allow them to extract the information they need. This does not apply to any material that is reasonably assumed to belong to us, e.g. internally-generated documents.

We have a lien on your files and all other documents and materials and you agree that we can retain ownership of your files until we receive payment in full of our invoices for all matters in respect of which we have been instructed.

File storage and archiving

Our files are kept in physical or electronic form under normal commercial office filing and storage conditions, and may be destroyed when no longer current. Please therefore tell us if you require the return of any materials supplied to us.

Our storage and archiving procedure will depend on the type of file:

- Prosecution files for applications to register IP rights will normally be treated as being closed on grant or registration and will be scanned and archived in electronic form,
- Files for post-grant and post-registration procedures for IP rights will also be scanned and archived in electronic form,
- General files will be stored for a minimum of 6 years and may be destroyed after that,
- Patent and trade mark renewal files will be stored for a minimum of 5 years and 10 years, respectively, and may be destroyed after that.

Original documents

We will not normally hold or retain original documents (e.g. grant or registration certificates, documents relating to a change of ownership, signed agreements and undertakings) and you will need to make suitable arrangements for their safekeeping.

COMPLAINTS POLICY

We ('Serjeants LLP') are committed to carrying out professional work for you (our 'client') in a timely manner and with proper regard for standards of professional service and client care. If we fail to do so, please tell us. We will investigate the matter and, if appropriate, offer a remedy.

How to complain

If your complaint is against one of our partners, please contact any one of the other partners. If your complaint is against a member of staff, please contact any one of the partners.

Conduct of the complaint

Within 4 days of receiving your complaint, we will write to you to acknowledge it. We will send you a copy of this Complaints Policy. We will open a file for your complaint and record it in our complaints register.

The partner you have contacted will investigate your complaint. He may:

- Review the file and any associated documents for the matter concerned,
- Interview the person against whom the complaint was made and any other person within the firm who may have knowledge of the matter,
- If necessary or desirable, seek further clarification from you, possibly at a meeting with you.

The partner investigating your complaint will write to you within 21 days to report his findings. If this time limit cannot be met, for example because of absences of relevant individuals or because further information is required, we will explain why and agree a new deadline with you.

When reporting his findings, the partner investigating your complaint may make suggestions for resolving the matter or offer a remedy.

Internal review

If you are still not satisfied, please let us know. A review of our decision will be carried out within 21 days by an independent partner (i.e. not the partner who first investigated your complaint or the partner against whom your complaint was directed). If this time limit cannot be met, we will explain why and agree a new deadline with you. On completion of the review, we will confirm our final position to you setting out our reasons.

External review

If you are still not satisfied, and you are an individual client, a micro-enterprise, a charity, club or trust, then you can refer your complaint to The Legal Ombudsman. This must be done within the time scales set by the legal ombudsman as otherwise your complaint may be refused.

Further information may be obtained from The Legal Ombudsman, whose contact details are:

PO Box 15870

Birmingham

B30 9EB

Telephone: 0300 555 0333

Website: www.legalombudsman.org.uk

Professional misconduct

Any complaints concerning professional misconduct should be directed to the Intellectual Property Regulation Board (IPReg). Generally complaints must relate to matters which have occurred within the last 12 months. If the complaint is made outside that period then an explanation why the complaint could not have been brought earlier must be provided.

Further information may be obtained from the IPReg, whose contact details are:

Fifth Floor Outer Temple

222-225 Strand

London

WC2R 1BA

Telephone: 020 7353 4373

Website: www.ipreg.org.uk

All of our partners and qualified staff members are registered patent and/or trade mark attorneys and, subject to their professional qualifications, are individually regulated by the IPReg, the Institute of Professional Representatives before the European Patent Office (EPI), and the Solicitors Regulation Authority (SRA).

Further information may be obtained from the EPI whose contact details are:

Bayerstrasse 83

80335 Munich

Germany

Telephone: +49 89 242052 0

Website: www.patentepi.com

And from the SRA whose contact details are:

Ipsley Court

Berrington Close

Redditch

B98 0TD

Telephone: 0870 606 2555

Website: www.sra.org.uk